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19 DEMETRIC DI-AZ and OWEN DIAZ

20  
21 **UNITED STATES DISTRICT COURT**  
22  
23 **NORTHERN DISTRICT OF CALIFORNIA**

24 DEMETRIC DI-AZ, OWEN DIAZ, and  
25 LAMAR PATTERSON,

26 Plaintiffs,

27 v.

28 TESLA, INC. dba TESLA MOTORS, INC.;  
CITISTAFF SOLUTIONS, INC.; WEST  
VALLEY STAFFING GROUP;  
CHARTWELL STAFFING SERVICES, INC.;  
and DOES 1-50, inclusive,

29 Defendants.

30 Case No. 3:17-cv-06748-WHO

31  
32 **PLAINTIFFS' OBJECTION TO ONE**  
33 **ALLEGED REFERENCE DEMETRIC DI-**  
34 **AZ REAPPLYING TO TESLA AFTER HE**  
35 **WAS TERMINATED**

36 Pretrial Conference Date: 09-21-21  
37 Time: 3:00 p.m.

38 Trial Date: September 24, 2021  
39 Complaint filed: October 16, 2017

40  
41 Plaintiff Owen Diaz hereby objects to Defendant Tesla's reference to an event that is at  
42 best contested and for which there is no admissible evidence designated. In Page 7 of its'  
43 Opening Powerpoint attached as Exhibit 1, Defendant refers to an event relating to Demetric Di-

1 Az being terminated by West Valley Staffing with a reference to Exhibit 5 and 369.

2 Immediately after that reference point, Defendant states in red letters:

3 **Oct 26, 2015: Demetric applies directly to Tesla for**  
4 **employment.**

5 Tesla cites no evidence to support this. More importantly, there is no exhibit that will support  
6 this. At his deposition, Mr. Demetric Di-Az was asked about a Tesla document that purported to  
7 reference his applying for a position at Tesla on October 26, 2015. Here is that testimony.

8 Page 47, Demetric Di-Az, Volume I

9 18 (EXHIBIT 9 was marked for identification.)

10 19 BY MS. ANTONUCCI:

11 20 Q. Did you apply for a position with Tesla as an

12 21 associate product excellence engineer power train on

13 22 October 26th, 2015?

14 23 A. Not that I can recall.

15 24 Q. I'm turning -- Exhibit 9 is, again, a printout

16 25 from Tesla's application system, which is Bates-stamped

17 Page 48

18 1 at the bottom 146 to 152.

19 2 Do you see there at the top where it says

20 3 "Associate product excellence engineer power train," at

21 4 the top of 146?

22 5 A. Yes.

23 6 Q. And do you see there on the right it says "date

24 7 applied 10/26/2015"?

25 8 A. Yes.

26 9 Q. And is that your name at the top, Demetric G.

27 10 Di-az?

28 11 A. Yes.

12 Q. Does this refresh your recollection as to

13 whether or not you applied for a job as an associate  
14 product excellence engineer with power train in October  
15 of 2015?

16 A. No, it doesn't.

17 Q. Do you have any reason to believe that Tesla's  
18 applicant records are inaccurate?

19 A. I don't remember ever doing this application.

20 Somebody could have did it for me. I don't remember.

21 Q. Do you remember ever applying for a position at  
22 Tesla at any time in October 2015?

23 A. No.

24 Q. Do you remember applying for a position with  
25 Tesla at any time after you stopped working for West  
Page 49  
1 Valley?

2 A. No.

3 MR. ORGAN: Counsel, can we take a break?

4 MS. ANTONUCCI: Do you see here at the top of  
5 the page where it says "product associate assembly  
6 line"?

7 THE WITNESS: Yes.

8 BY MS. ANTONUCCI:

9 Q. And do you see that the date applied is  
10 10/26/2015?

11 A. Yes.

12 Q. Did you apply for a position with Tesla as a  
13 production associate assembly line on October 26th,  
14 2015?

15 A. I don't remember.

16 Q. You don't remember?

17 A. Yes.

18 Q. But it's possible you did?

19 A. I said before I don't remember. Somebody could  
20 have did it for me. I don't remember applying.

21 Q. Do you have any reason to believe that Tesla's  
22 candidate records regarding your application as  
23 production associate assembly line are inaccurate?

24 MR. ORGAN: Objection. Vague and ambiguous.

25 THE WITNESS: I don't know.

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12 1 BY MS. ANTONUCCI:

13 2 Q. Did you ever ask anybody to apply for a position  
14 3 for you at Tesla?

15 4 A. No.

16 5 Q. Do you remember having an interview with Tai Hua  
17 6 at Tesla?

18 7 A. No.

19 8 Q. Do you ever remember speaking to Tai Hua as  
20 9 Tesla?

21 10 A. No.

22 11 Q. Do you remember ever having an interview with  
23 12 anybody at Tesla for a job?

24 13 A. No.

25 14 Q. Do you remember ever telling anybody at Tesla  
26 15 that you plan on furthering your education to pursue a  
27 16 degree in engineering?

28 17 A. Yes. But that's not my choices now for my  
18 career.

1 19 Q. Okay. But you do remember telling someone at  
2 Tesla that you wanted to pursue a career in engineering?

3 21 A. I remember saying I wanted to pursue a career in  
4 engineering.

5 23 Q. To someone at Tesla?

6 24 A. I just remember saying I wanted to pursue a  
7 career in engineering.

8 Page 51

9 1 Q. Who did you say that to?

10 2 A. I told a few different people that.

11 3 Q. Who did you tell that you wanted to pursue a  
12 career in engineering?

13 5 A. I told my mom. I told my dad. I told a few  
14 different people that. It didn't go the way I wanted it  
15 to go. It doesn't seem like it's the thing for me. I'm  
16 studying sociology.

17 9 Q. Did you ever tell anyone at West Valley you  
18 wanted to pursue a career in engineering?

19 11 A. Not that I can recall.

20 12 Q. Did you ever tell anyone at Tesla you wanted to  
21 pursue a career in engineering?

22 14 A. Not that I can recall.

23 15 Q. Do you remember saying, "I know I'm a great fit  
24 for this job. I'm a team player, determined, and will  
25 put forth a hundred percent towards this job"?

26 18 A. I don't remember saying --

27 19 Q. Do you remember submitting a cover letter to  
28 Tesla in October of 2015?

21 A. No.

The deposition excerpt from Demetric Di-Az makes clear that he did not have any memory of submitting an application to Tesla in October 2015 and that he was not aware of someone submitting an application on his behalf. Defendant has not offered the exhibit 9, referenced in Mr. Diaz's deposition, as an exhibit.

The implication of this document goes to welcomeness in that a person who is exposed to a hostile work environment would not reapply to such place. But it does not go to prove Owen Diaz's view of the workplace which is the only relevant inquiry. Therefore, the probative value of the evidence which is low is substantially outweighed by the prejudicial value of the evidence which suggests that there was not a hostile work environment at Tesla or Demetric wouldn't have reapplied. In addition, there is no foundation or authentic evidence set support this. Accordingly, Plaintiff asks the Court to prevent reference to this matter.

DATED: September 23, 2021

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